THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No. 21830 of 2004

Date: 06-06-2006

Between:

Sanika Venkateswarlu

..... PETITIONER

AND

Additional Agent to the Government &
Project Officer, I.T.D.A. Bhadrachalam,
Khamma District and two others.

....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No. 21830 of 2004

O R D E R:

This writ petition is filed seeking a declaration that the order passed by the first respondent dated 16-10-2004 in C.M.A.No.34 of 2003 thereby confirming the order of ejection dated 31-08-1987 passed by the third respondent in Case No.60 of 1986, is illegal and arbitrary.

Though various grounds have been raised on merits, learned counsel for the petitioner at the outset points out that the appeal was dismissed by the first respondent without affording an opportunity to the petitioner to produce the necessary material to substantiate his case.

A perusal of the order passed by the first respondent in C.M.A.No.34 of 2003 itself shows that on 07-08-2004 the petitioner was present and sought time for filing documents and for the said purpose the matter was adjourned by one week. It appears that even before the documents could be produced, the 1st respondent reserved the orders observing that the petitioner failed to produce the documents. Ultimately, the appeal was dismissed by order dated 16-10-2004. The specific case of the petitioner is that on 12-08-2004 the counsel appearing for the petitioner filed a memo before the first respondent requesting to reopen the appeal and to hear the same on merits, however, the same was not considered and the first respondent proceeded to decide the

appeal.

Having regard to the above submission made by the learned counsel for the petitioner and having perused the material on record, it appears to me that the appeal was decided without affording proper opportunity to the petitioner to substantiate his case. Since admittedly the 1st respondent had reserved the mater for orders in the month of August, 2004, but passed the orders only in the month of October, 2004, there is absolutely no justifiable reason for not considering the request of the petitioner to reopen the appeal and to provide an opportunity to the appellant / writ petitioner to make his submissions on merits. In the circumstances, I am of the opinion that the order passed by the first respondent confirming the order of ejection being in violation of the principles of natural justice cannot be sustained.

Accordingly, without expressing any opinion on merits, the order dated 16-10-2004 in C.M.A.No.34 of 2003 is set aside and the writ petition is disposed of with a direction to the first respondent to dispose of C.M.A.No.34 of 2003 and to pass appropriate orders afresh following due process of law. No costs.

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G.ROHINI, J

Dated:06-06-2006
KLP